

General Information Letter: Liens for unpaid income taxes arise by operation of law at the time the tax is due.

June 7, 2001

Dear:

This will serve as a reply to your correspondence dated April 16, 2001, which was referred to this office by the Department of Revenue's Collection Bureau. Therein you state as follows:

I received the enclosed notice of a tax lien from your office.

1. What court of law authorized a tax lien on my account?
2. What law are you relying on that would substantiate that I am liable for this tax?

According to Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill. Adm. Code 1200, or on the Department's web-site at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

In answer to your questions, we refer you to Illinois Income Tax Act (IITA) Section 1101, 35 ILCS 5/1101, which reads in part as follows:

Sec. 1101 Lien For Tax

- (a) If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the State of Illinois upon all property and rights to property, whether real or personal, belonging to such person.
- (b) Unless another date is specifically fixed by law, the lien imposed by subsection (a) of this Section shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

As you can see from this statute, a lien for unpaid tax arises at the time assessment of such tax is made. For persons who file a signed return showing tax due, assessment of that amount occurs on the date of filing of that return. IITA Sec. 903(a)(1). According to our records, you filed a signed return showing an income tax liability for taxable year 1992, but failed to pay that balance. The unpaid amount of tax shown on the return is the amount of tax you yourself have admitted you owe for that taxable year. Upon filing

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of the return, it thus became "self-assessed". By failing to pay the amount of tax you admitted was due, the lien in question arose by operation of statute – no court action was necessary. It will remain in place until satisfied by voluntary or involuntary means.

Sincerely yours,

Jackson E. Donley,  
Senior Counsel-Income Tax